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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,981	03/12/2004	Michael John Chase	419320	9058
30955 7590 12/05/2008				
LATHROP & GAGE LC				
4845 PEARL EAST CIRCLE				
SUITE 300				
BOULDER, CO 80301				
EXAMINER				
JAKOVAC, RYAN J				
ART UNIT		PAPER NUMBER		
2445				
MAIL DATE		DELIVERY MODE		
12/05/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/799,981

**Applicant(s)**

CHASE, MICHAEL JOHN

**Examiner**

RYAN J. JAKOVAC

**Art Unit**

2445

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-23 and 29-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-23 and 29-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 18 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims recite the method of “forming one or more surrogate proxy user agents,” however the specification does not disclose how to “form” a proxy user agent.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2002/0173308 to Dorenbosch et al (hereinafter Dorenbosch) in view of US 2004/0107143 to Niemi.

Regarding claim 18, Dorenbosch teaches a method for best effort delivery messaging for a recipient user agent, comprising the steps of:

as directed by the recipient user agent, forming one or more surrogate proxy user agents for the recipient user agent (Dorenbosch, Paragraph [0002] discloses that, "In addition to the above components, the IM system also includes an IM proxy according to the present invention that is located in a message pathway between the mobile subscriber and both the IM login server and the IM message servers." These proxies are created when a user logs into the system.).

Dorenbosch does not expressly disclose utilizing a session initiation protocol, however, Niemi discloses utilizing a session initiation protocol (Niemi, [0005-0009] discloses the use of the SIP protocol to set up and tear down multimedia sessions. Paragraph [0006] discloses that the SIP protocol is an ideal base for instant messaging. [0025-0029] discloses the use of a SIP proxy between two user agents transmitting and receiving messages between each other. See also the abstract.); and

Dorenbosch discloses through operation of the surrogate proxy user agents, managing storage of multimedia data for the recipient user agent due to one or both of (a) unavailability of the recipient user agent and (b) request by the recipient user agent (Dorenbosch, Sec Fig. 5 as described in paragraph [0024]. If the user is unavailable, the proxy stores the message and attempts to send the message to the user until the proxy receives acknowledgement that the user has received the message. See also, Niemi, [0025-0029], SIP proxy.).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to combine the use of SIP as taught by Niemi with the elements of Dorenbosch in

order to establish an interactive session for the rapid delivery of content to users and to facilitate messaging between users (Niemi, [0006], [0025-0029]).

Regarding claim 19, the combination of Dorenbosch and Niemi teaches the method of claim 18, the step of storing comprising registering the surrogate proxy user agents with a registration entity such that notification events on changes of the recipient user agent's availability are received by the surrogate proxy user agents surrogate proxy user agents (Dorenbosch, Paragraph [0018] teaches registering with the IM login server which includes presence information about other users.).

Regarding claim 20, the combination of Dorenbosch and Niemi teaches the method of claim 18, further comprising the step of attempting delivery of the multimedia data when the recipient user agent becomes available (Dorenbosch, Fig. 5 as described in Paragraphs [0024]-[0027] teaches when a user returns to service the message will be sent to the user.).

Regarding claim 21, the combination of Dorenbosch and Niemi teaches the method of claim 20, further comprising the step of ranking the multimedia data for sequentially-ordered delivery of the multimedia data when the recipient user agent becomes available (Dorenbosch, Paragraph [0037] teaches forwarding multiple stored messages to the agent when available. The messages are sent in the order they are received and are ranked as such. Additionally Dorenbosch teaches the messages pending for delivery from the proxy to the agent can be bundled and grouped together when sent.).

Regarding claim 22, the combination of Dorenbosch and Niemi teaches a method for best effort delivery messaging for a sending user agent, comprising the steps of:

from a list of one or more receiving user agents specified by the sending user agent (Dorenbosch, Paragraph [0027] specifically teaches the methods for delivering a message through the proxy in the instance where the message conversation is between more than 2 users. It is specifically stated that the method of sending messages can be sent to 3 or more users. Inherent to sending messages to multiple users would be a way of determining who the recipients of the messages would be, i.e. a list.);

forming one or more surrogate proxy user agents utilizing a session initiation protocol (Niemi, [0005-0009], [0025-0029], abstract.) for each of the receiving user agents (Dorenbosch, Paragraph [0002] teaches "In addition to the above components, the IM system 10 also includes an IM proxy 24 according to the present invention that is located in a message pathway between the mobile subscriber 12 and both the IM login server 16 and the IM message servers 20, 22." These proxies are created when a user logs into the system for each user.); and

through operation of the surrogate proxy user agent, managing storage of multimedia data for its respective receiving user agent until the receiving user agent is disposed to receive the multimedia data (Dorenbosch, Fig. 5 as described in Paragraphs [0024]-[0027] teaches when a user returns to service the message will be sent to the user.).

Regarding claim 23, the combination of Dorenbosch and Niemi teaches the method of claim 22, the step of managing comprising managing the multimedia data as distributed across a

network, and further comprising one or more of prefixing, appending, inserting, combining, and mixing other data with the multimedia data, and one or more of blanking, deleting, and filtering the multimedia data (Niemi, [0029], an authorization token is added to the incoming message.).

5. Claims 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorenbosch in view of Niemi and further in view of Applicant's Admitted Prior Art (hereinafter AAPA).

Regarding claims 29-32, the combination of Dorenbosch and Niemi teaches the method of claims 18 and 22, Dorenbosch and Niemi do not expressly disclose the step of forming further comprising utilizing one or more media stream proxies with a realtime transport protocol, however, this is disclosed in the AAPA (AAPA, [0154-0155], SIP user agents establish a session through a proxy, location, or registrar SIP server. The message is transmitted as a media stream as prescribed by a session description and a real time transport protocol.).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to combine utilizing one or more media stream proxies with a real time transport protocol as taught by AAPA with the method of the combination of Dorenbosch and Niemi since it is a well known method in the prior art of facilitating data transfer (AAPA, [0154-0155], see also figs. 8a and 8b which are illustrative of the prior art.).

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 18-23 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN J. JAKOVAC whose telephone number is (571)270-5003. The examiner can normally be reached on Monday through Friday, 7:30 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RJ/

/Larry D Donaghue/  
Primary Examiner, Art Unit 2454